

EXHIBIT 3

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS.

SUPERIOR COURT
Docket No. 04-1105

Bay Mortgage Services, Inc.)
and Peter J. Lucido,)
Plaintiffs)
v.)
USBancorp,)
Defendant)

FIRST REQUEST FOR PRODUCTION OF DOCUMENTS BY PLAINTIFF, BAY MORTGAGE SERVICES, INC., TO DEFENDANT, USBANCORP

The Plaintiff, Bay Mortgage Services, Inc., requests pursuant to Mass.R.Civ.P.34 and 26(e), that the Defendant, USBancorp, produce for examination and/or copying all documents in the below categories which have not heretofore been produced.

DEFINITIONS AND INSTRUCTIONS

The following instructions and definitions are applicable to interrogatories contained herein:

A. "Documents" shall mean written or graphic material, however produced or reproduced, in the actual or constructive possession, custody or control of the Defendant, including documents accessible at Defendant's request, and shall include, without limitation, the following: the originals and all copies of all records, contracts, notes, memoranda (including written memoranda of telephone conversations, other conversations, discussions, agreements, acts, or activities), minutes, diaries, calendars, desk pads, appointment books, notebooks, bulletins, forms, pamphlets, notices, statements, checks, check stubs, cancelled checks, correspondence, data cards, computer printouts, photography, drawings, letters, telegrams, telexes, telephone statements, cables, reports, studies, intra-office communications, charts, plans, drawings, graphs, calculations, proposals, diagrams, specifications and accounting and financial records whether prepared by Defendant for Defendant's own use or for transmittal, or received by Defendant and wherever located.

Unless otherwise specified, documents referred to herein shall be those responsive documents related to, prepared, issued or published during, or which in any way deal with, unless otherwise

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specified, the subject matter of the pending litigation, including all portions or pages of each document called for and all attachments, enclosures, appendices and supporting documentation, and including, without limitation, originals, copies (with or without notes or changes therein), drafts, working papers, routing slips, handwritten notes and similar materials.

Each reference to documents requested herein extends to all documents in the actual or constructive possession, custody or control of Defendant, Defendant's affiliates, agents, employees, attorneys, and accountants or any person acting on Defendant's behalf. A document is deemed in the actual or constructive possession, custody or control of Defendant if it is in Defendant's physical custody or if it is in the physical custody of any person and Defendant (a) own such document in whole or in part, (b) have a right, by control, contract, statute or otherwise, to use, inspect, examine or copy such document on any terms, (c) have an understanding, express or implied, that Defendant may use, inspect, examine or copy such document on any terms, (d) have, as a practical matter, been able to use, inspect, examine or copy such document when they sought to do so.

- A. The terms "Defendant" and "you" shall mean, collectively or individually, the named Defendant to whom these interrogatories are propounded including his respective present and former agents, personnel, consultants, advisors, attorneys, accountants, employees, and/or representatives, collectively or individually, or in any group of them acting or purporting to act for or on behalf of said Defendant.
- B. The term "Plaintiff" shall mean the named Plaintiff in the Complaint, its respective agents, servants, attorneys, and employees.
- C. The words "relating to" mean directly or indirectly, in whole or in part, constituting, evidencing, recording, reflecting, substantiating, describing, summarizing, identifying, or referring or related to in any way.
- D. "Each" includes the word "every" and "every" includes the word "each". "Any" includes the word "all" and "all" includes the word "any". "And" includes the word "or" and "or" includes the word "and".

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- E. The term "person" includes all natural persons, and all artificial persons of any kind including corporations, unincorporated associations, business trusts, or other entities separately identified no matter how organized.
- F. The term "communication" means any written or oral transmission of fact, information or opinion, including any utterance, notation or statement of any nature whatsoever and including, but not limited to, documents and correspondence as defined therein.
- G. "Date", "period", "amount", "quantity", "number", "volume", "location", "place", and "value" shall mean the approximate date, period, amount, quantity, number, volume, location, place and value if the party answering states he does not know the exact date, period, amount, quantity, number, volume, location, place or value.
- H. "Support" shall mean to provide a basis for, to tend to support and/or to be believed to support.

REQUESTS

1. Any and all documents reflecting the assignment of certain contracts, agreements and other documents from Norvergence to USBancorp including the assignment of those documents executed by the Plaintiffs.
2. Any and all documents provided by Norvergence to USBancorp relating to the nature of Norvergence's businesses, services or products.
3. Any and all documents related to the financial terms under which the Norvergence contracts were assigned to USBancorp.
4. Any and all documents related to procedures for enforcing the Norvergence contracts whether received from or sent to Norvergence or used internally by USBancorp.
5. Any and all records related to any inquiries and other due diligence actions made by USBancorp regarding the nature of Norvergence's business prior to taking assignment of any contracts from Norvergence.
6. Any and all contracts, memoranda of understanding, agreements and any and all other documents that reflect the relationship between Norvergence and USBancorp.
7. All form letters and telephone scripts used by USBancorp in the collection of Norvergence's contracts.

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8. Any and all documents including correspondence, subpoenas and memoranda from any government agency, Better Business Bureau or other similar organization, inquiring about the business practices of Norvergence.
9. Any and all documents provided by Bancorp to any governmental agency, Better Business Bureau or other similar organization in response to inquiries regarding the business practices of Norvergence.
10. Any and all documents including, but not limited to, correspondence, records of phone calls, notes and memoranda regarding complaints from Bancorp's customers regarding Norvergence's practices, products or services.
11. Any and all documents reflecting claims or counterclaims filed by customers against USBancorp involving a Norvergence contract.
12. Any and all documents including, but not limited to, correspondence, notes, memoranda and emails regarding any and all communications between USBancorp and any other leasing company or business regarding the Norvergence contracts, collection activities related to Norvergence contracts, and/or any litigation involving Norvergence contracts.

Respectfully submitted,
Bay Mortgage Services, Inc., Plaintiff
By its Attorneys:

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Dated: September 15, 2004

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CERTIFICATE OF SERVICE

I, Allan J. Costa, Esquire, hereby certify that I have served a copy of this **FIRST REQUEST FOR PRODUCTION OF DOCUMENTS BY PLAINTIFF, BAY MORTGAGE SERVICES, INC., TO DEFENDANT, USBANCORP** by mailing a copy of same, certified mail, return receipt requested, to Defendant this 16th day of September, 2004.

Allan J. Costa, Esquire

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